

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.800 OF 2007

Prathamesh Pooja Co-operative
Housing Society Limited

...Petitioners

v/s.

Municipal Corporation of Greater Bombay

...Respondents

Ms.Sumedha Rao for Petitioners.

Mr.N.A. Shaikh for Respondent(BMC)

CORAM : V.M. KANADE, J.

DATED : 17th APRIL, 2007.

P.C.:

1. Heard the learned counsel appearing on behalf of the Petitioners and the learned counsel appearing on behalf of the Respondents.

2. The Petitioners are challenging the notice dated 16th March, 2007 whereby the Petitioners have been asked to make payment within forty eight hours and on failure to make payments, it is stated in the notice that the water connection would be disconnected. It is submitted by the Petitioners that even before period of forty eight hours was over and one day prior to the said notice, on 15/03/2007 the Corporation had disconnected the water

supply . The Respondents have filed affidavit in reply in which it is stated that occupation certificate has not been granted to the building and that the water connection was granted on humanitarian ground. It is further stated that a complaint was received by the Corporation that the Petitioners-Society have not complied with the conditions which were imposed on the Petitioner-Society when the approval was granted. It is further stated that the permission was granted for having water connection through 32mmX32mmX40mm pipeline. It was found on inspection that the size of the pipeline which provided water connection was in fact 50mmX50mm and therefore, it was found that the Petitioner had un-authorizedly obtained water connection and therefore on 15/03/2007 water connection was cut off on account of non-compliance of conditions which were imposed by the Corporation. It is further submitted that the water supply was not disconnected on account of demand notice which is annexed to the petition.

3. By the impugned order dated 23rd March, 2007 this Court had directed the Corporation to re-connect the water connection to

the Society.

4. Fact remains that before disconnection of the water supply, no show cause notice was issued to the Petitioners-Society. Obviously, therefore, said disconnection of water supply is clearly illegal as no hearing was given to the Petitioners-Society. Action of the Corporation, therefore, in disconnecting water supply to the Society is set aside. Interim order dated 23rd March, 2007 is confirmed. The Corporation, however, may consider issuance of show cause notice to the Petitioners-Society, stating therein the reasons why they want to disconnect the water supply and give personal hearing to the officer bearers of the Petitioner-Society and thereafter, they may take action in accordance with law. With this directions, writ petition is disposed of. Rule is made absolute accordingly.

V.M. KANADE, J.